

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

WILLIAM GORDON, DIN # 95-A-0033; ANDRE COMBS, DIN # 74-B-0737; ROBERT DIDONATO, DIN # 97-A-4213; DELANO BROWN, DIN # 81-A-4887, suing on behalf of themselves and all others similarly situated,

*Plaintiffs,*

-v-

GEORGE ALEXANDER, Chairman of the New York State Division of Parole; and THE NEW YORK STATE DIVISION OF PAROLE,

*Defendants.*

**NOTICE OF MOTION  
TO DISMISS**

08 Civ. 5673 (SAS)

(Electronically Filed)

TO: Stephen N. Dratch  
Franzblau Dratch, P.C.  
Plaza One  
354 Eisenhower Parkway  
P.O. Box 472  
Livingston, NJ 07039-0472

PLEASE TAKE NOTICE that upon the accompanying memorandum of law, defendants, by their attorneys, will move for an order pursuant to FRCP 12(b)(1) and 12(b)(6) dismissing the claims asserted against them.

Please take further notice that, pursuant to Local Civil Rule 6.1(b), any opposing affidavits and answering memoranda must be served within ten business days after service of these moving papers, unless a different schedule is Ordered by the Court.

Dated: New York, New York  
August 28, 2008

ANDREW M. CUOMO  
Attorney General of the State of New York  
Attorney for Defendants  
By:

\_\_\_\_\_  
/s/  
Daniel A. Schulze  
Frederick H. Wen  
Assistant Attorneys General  
120 Broadway - 24th Floor  
New York, New York 10271  
(212) 416-6557

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served a true and correct copy of the following papers:

- (1) **NOTICE OF MOTION TO DISMISS;**
- (2) **MEMORANDUM OF LAW IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS,**

on August 28, 2008 upon plaintiffs' attorney by causing the papers to be promptly filed in accordance with the ECF Rules of the Southern District of New York, and by enclosing a copy of the papers in a properly addressed package, and mailing the package by U.S. First-Class Mail, postage prepaid, to the following address:

Stephen N. Dratch  
Franzblau Dratch, P.C.  
Plaza One  
354 Eisenhower Parkway  
P.O. Box 472  
Livingston, NJ 07039-0472

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 28, 2008.

/s/  
Daniel Schulze